

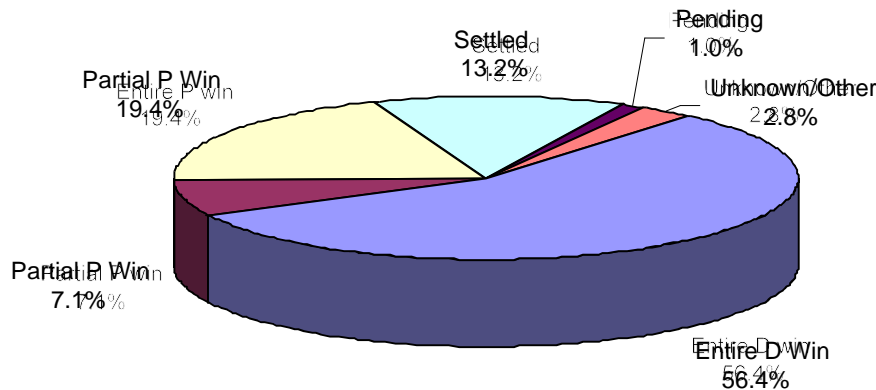
ANNUAL STUDY SEES SIX MEDIA TRIALS IN 2008; HALF WON BY DEFENDANTS

The long-term trends of declining numbers of trials on libel, privacy and related claims, and increasing defense victory rates, continued in 2008, according to the latest edition of MLRC’s annual study of media litigation, the 2009 Report on Trials and Damages. But the 2008 cases bucked another long term trend, which has seen a drastic decline in punitive damages since MLRC began compiling statistics in 1980.

MLRC’s report analyzes the results of trials and appeals in lawsuits against media defendants stemming from media content. The study now includes information on 595 such cases, from 1980-2008, the most comprehensive database of media litigation available.

There were six trials meeting MLRC’s criteria in 2008, tying the previous low number of trials in a single year, reached in 2002. Media defendants won half of the 2008 trials, with plaintiffs winning the other three trials. Overall since 1980, media defendants have increasingly won a higher percentage of cases trial, with the defense win rate at trial rising from 36.8 percent of verdicts in the 1980s to 40.4 percent in the 1990s and 53.6 percent so far in the 2000s.

And while punitive damages constituted 56.3 percent of the trial awards in 2008, the long-term trend is that the percentage of cases that had punitive damage awards has declined significantly. And the percentage of dollars represented by punitive damage awards has also declined dramatically. In the 1980s, 61.0 percent of damage dollars awarded were punitive. This declined to 51.1 percent in the 1990s (with one exceptional verdict, in *MMAR v. Dow Jones*, excluded), and so far this decade, punitive awards have been only 8.9 percent of total awards.



In all of the cases in the MLRC database that form the basis of this Report, from 1980 through 2008, at the conclusion of all proceedings, defendants totally won 56.6 percent of cases. This is the share of cases in which plaintiffs ended up with no damages after trial, post-trial motions, and appeals. In 6.8 percent of cases, plaintiffs

ended up winning some damages, but less than the amount initially awarded at trial. And plaintiffs fully won 19.1 percent of cases, meaning that the initial damages amount awarded to them after trial survived through to the end of the case. There were post-trial settlements in the end of 13.2 percent of cases.

Total damage awards in the cases tried from 1980-2008 were reduced 88.1 percent overall from the amounts awarded at trial to the amounts ultimately awarded after post-trial motions and appeals. The average damage award at trial, \$2.8 million, was reduced to an average final award of only \$580,000, while the median dropped from \$300,000 to \$100,000.

Among the states, California has had the most trials (41), followed by Pennsylvania (37), and Texas (32).

The MLRC REPORT is available free to the press from MLRC by calling (212) 337-0200. It is available to others for \$35. More information from the REPORT can be found at www.medialaw.org.

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The Media Law Resource Center, Inc. (MLRC) is a non-profit membership organization founded in 1980 by leading American media to provide a wide range of information and support on media law and policy issues, including news and analysis of legal developments, litigation resources and practice guides, and national and international media law meetings and conferences. MLRC also works with its membership on responding to legislative and policy proposals and in promoting First Amendment and free expression rights. With its sister organization, the MLRC Institute, MLRC endeavors to educate the press and public on media law and First Amendment issues and to provide information and materials for others to do so.

MLRC's Media Membership of over a hundred supporting organizations includes the nation's leading publishers, producers, broadcasters and cable programmers; media and professional trade associations representing newspaper, newsletter and book publishers, broadcasters, journalists, authors, news directors and newspaper editors; and media insurance industry entities. MLRC's law firm wing, the Defense Counsel Section, has more than two hundred twenty member firms nationwide, in Canada, England and elsewhere around the world, engaging in media and First Amendment defense representation.

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